

Applicant: Kujawski, D.
Application No.: 10/823,061
Amendment and Response dated June 5, 2007
Reply to Office Action of March 8, 2007
Docket No.: 760-183
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Arguments/Remarks:

Claims 1-34, 36 and 37 are pending. Claims 22-33 are withdrawn. Claim 34 has been amended to include the limitation of claim 35. Accordingly, claim 35 has been canceled. No new matter is introduced with this amendment. Entry of the amendment is respectfully requested.

Double Patenting Rejection

Claims 1, 3, 4, 18-21 and 34 are provisionally rejected on the ground of non-statutory double patenting over claims 32, 35, 39-41 and 44-46 of co-pending application No. 10/823,456. Upon indication of allowable subject matter, Applicant is willing, if still necessary, to file a terminal disclaimer to obviate the provisional double patenting rejections.

Section 102 Rejections

Claims 1-21 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2003/0078650 to Nunez et al. (hereinafter "Nunez"). Applicant respectfully traverses.

The examiner alleges that Nunez discloses "a bulbous end scalloped with three contoured, pedal-like projections (914 a-c) [at Fig. 18] which seamlessly extend from the hollow tubular woven portion 917...." (Office Action dated March 8, 2007, page 4, paragraph 11) (emphasis added). It is respectfully submitted that the three projections 914 a-c of Nunez are tubular projections. Indeed, the examiner recognizes that the main body 917 is a tubular body. It is apparent from Fig. 18 that the three projections (914 a-c) are also tubular projections, i.e., similar in shape but smaller in diameter than the main body 917.

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Further, the subject specification at paragraph [0035] specifically contrasts petal-like projections from tubular projections, as follows:

[T]he petal-like projections are ... not tubular. (Specification, paragraph [0035], lines 5-6).

Still Further, Nunez fails to disclose “a bulbous woven portion having opposed first and second ends, the first bulbous end having a greater number of warp yarns interlaced with said fill yarns in a flat-woven tubular bulbous pattern contiguously woven from said second tubular end to provide a seamless woven, wherein the greater number of warp yarns are threadingly engaged with said fill yarns to define a flat-woven bulbous diameter”, as set forth in independent claim 1.

Thus, Applicant respectfully submits that Nunez fails to disclose each and every limitation of independent claim 1. Therefore, reconsideration and withdrawal of the rejection of claim 1 and all dependent claims therefrom, are respectfully requested.

Section 103 Rejections

Claims 34-37 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Nunez in view of U.S. Patent No. 5,156,619 to Ehrenfeld (hereinafter “Ehrenfeld”). Applicant respectfully traverses.

As described above, Nunez fails to teach or suggest a graft having, *inter alia*, a plurality of non-tubular woven projections seamlessly transitioned from a tubular end of a graft. Indeed, the Examiner, in direct contrast to the section 102 rejections offered in this action, here acknowledges the deficiencies of Nunez, as follows:

Nunez discloses a vascular graft ... however Nunez fails to disclose a vascular graft comprising non-tubular ends....
(Office Action dated March 8, 2007, page 4, paragraph 14)

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Ehrenfeld fails to teach or suggest that its graft should contain a plurality of non-tubular woven projections seamlessly transitioned from a tubular end of its graft. Further, one of ordinary skill in the art would not be motivated to combine the teaching of Nunez and Ehrenfeld because such a combination would contain an intermediate portion between the plurality of non-tubular woven projections, and the intent, purpose and function of Ehrenfeld is to avoid such an intermediate or crotch portion 15 of the prior art.

Thus, it is respectfully submitted that Nunez and Ehrenfeld, individually or in combination, fail to teach or suggest the invention as presently defined by independent claim 34. Reconsideration and withdrawal of the rejection of claims 34, and all claims dependent therefrom, are respectfully requested.

Summary

Therefore, Applicants respectfully submit that independent claims 1 and 34, and all claims dependent therefrom, are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

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The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account

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No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

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